UNITED STATES DISTRICT COURT DISTRICT OF SOUTH CAROLINA

Plaintiff, Vs. Greenville County Detention Administration and Staff; Jail) Administrator, Scotty Bodiford; Ass. Administrator James) Dorreity; Medical Administrator, Tracy Krien; Medical Staff,) Nurse Johnson; Greenville County Guard, Officer Marshall;) Greenville County Guard, Officer Gant; Chief Administrator) Judge, Letitia H. Verdin; and Greenville County Detention) Center, Defendants.	arcia Zenas Martelli Wilson, /k/a Garcia Zenas Wilson,) C/A No. 2:13-199-RMG-ВНН) \
Greenville County Detention Administration and Staff; Jail) Report an Administrator, Scotty Bodiford; Ass. Administrator James) Dorreity; Medical Administrator, Tracy Krien; Medical Staff,) Nurse Johnson; Greenville County Guard, Officer Marshall;) Greenville County Guard, Officer Gant; Chief Administrator) Judge, Letitia H. Verdin; and Greenville County Detention) Center,	Plaintiff,)))
Administrator, Scotty Bodiford; Ass. Administrator James) Dorreity; Medical Administrator, Tracy Krien; Medical Staff,) Nurse Johnson; Greenville County Guard, Officer Marshall;) Greenville County Guard, Officer Gant; Chief Administrator) Judge, Letitia H. Verdin; and Greenville County Detention) Center,)	i.))
Defendants.	dministrator, Scotty Bodiford; Ass. Administrator James orreity; Medical Administrator, Tracy Krien; Medical Staff, urse Johnson; Greenville County Guard, Officer Marshall; reenville County Guard, Officer Gant; Chief Administrator udge, Letitia H. Verdin; and Greenville County Detention	,)
	Defendants.)

Plaintiff, Garcia Zenas Martelli Wilson ("Plaintiff"), proceeding *pro se*, files this action pursuant to 42 U.S.C. § 1983.¹ Plaintiff is a pretrial detainee at the Greenville County Detention Center (GCDC), and files this action *in forma pauperis* under 28 U.S.C. § 1915. Pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B), and Local Rule 73.02(B)(2)(d), D.S.C., the undersigned is authorized to review such complaints for relief and submit findings and recommendations to the district judge.

Under established local procedure in this judicial district, a careful review has been made of the *pro* se complaint pursuant to the procedural provisions of 28 U.S.C. § 1915; 28 U.S.C. § 1915A; and the Prison Litigation Reform Act, Pub. L. No. 104-134, 110 Stat. 1321 (1996). This review has been conducted in light of the following precedents: *Denton v. Hernandez*, 504 U.S. 25, 112 S.Ct. 1728 (1992); *Neitzke v. Williams*, 490 U.S. 319, 109 S.Ct. 1827 (1989); *Haines v. Kerner*, 404 U.S. 519, 92 S.Ct. 594 (1972); *Nasim v. Warden, Maryland House of Correction*, 64 F.3d 951

¹Plaintiff filed a Petition for Writ of Mandamus in this Court, Civil Action No. 2:13-10-RMG-BHH, raising claims that are substantially similar to the claims raised in the above-captioned matter. In an Order entered contemporaneously with this Report and Recommendation, the Clerk of Court was directed to consolidate Civil Action No. 2:13-10-RMG-BHH with the above-captioned case.

(4th Cir. 1995)(en banc); and Todd v. Baskerville, 712 F.2d 70 (4th Cir. 1983).

The complaint herein has been filed pursuant to 28 U.S.C. § 1915, which permits an indigent litigant to commence an action in federal court without prepaying the administrative costs of proceeding with the lawsuit. To protect against possible abuses of this privilege, the statute allows a district court to dismiss the case upon a finding that the action "fails to state a claim on which relief may be granted" or is "frivolous or malicious." 28 U.S.C. §1915(e)(2)(B)(i), (ii). A finding of frivolity can be made where the complaint "lacks an arguable basis either in law or in fact." *Denton v. Hernandez*, 504 U.S. at 31. Hence, under 28 U.S.C. §1915(e)(2)(B), a claim based on a meritless legal theory may be dismissed *sua sponte. Neitzke v. Williams*, 490 U.S. 319 (1989).

This court is required to liberally construe *pro* se documents, *Estelle v. Gamble*, 429 U.S. 97, 97 S. Ct. 285 (1976), holding them to a less stringent standard than those drafted by attorneys, *Hughes v. Rowe*, 449 U.S. 5, 101 S. Ct. 173 (1980)(*per curiam*). Even under this less stringent standard, however, the *pro* se petition is subject to partial summary dismissal. The mandated liberal construction afforded *pro* se pleadings means that if the court can reasonably read the pleadings to state a valid claim on which the plaintiff could prevail, it should do so, but a district court may not rewrite a petition to "conjure up questions never squarely presented" to the court. *Beaudett v. City of Hampton*, 775 F.2d 1274, 1278 (4th Cir. 1985). The requirement of liberal construction does not mean that the court can ignore a clear failure in the pleading to allege facts which set forth a claim currently cognizable in a federal district court. *Weller v. Department of Social Services*, 901 F.2d 387 (4th Cir. 1990).

A claim for relief under § 1983, must sufficiently allege that the plaintiff was injured by "the deprivation of any [of his or her] rights, privileges, or immunities secured by the [United States] Constitution and laws" by a "person" acting "under color of state law." See 42 U.S.C. § 1983; Monell v. Dep't. of Soc. Serv., 436 U.S. 658, 690 & n.55 (1978) (noting that for purposes of § 1983 a "person" includes individuals and "bodies politic and corporate"); see generally 5 Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure § 1230 (2002). It is well settled that only

"persons" may act under color of state law, therefore, a defendant in a § 1983 action must qualify as a "person." For example, several courts have held that inanimate objects such as buildings, facilities, and grounds are not "persons" and do not act under color of state law. *See Preval v. Reno*, 57 F. Supp.2d 307, 310 (E.D. Va. 1999) ("[T]he Piedmont Regional Jail is not a 'person,' and therefore not amenable to suit under 42 U.S.C. § 1983."); *Brooks v. Pembroke City Jail*, 722 F. Supp. 1294, 1301(E.D.N.C. 1989) ("Claims under § 1983 are directed at 'persons' and the jail is not a person amenable to suit."). The Greenville County Detention Center, which consists of buildings, facilities, and grounds, is not a "person" amenable to suit under Section 1983, and is therefore entitled to summary dismissal.

Additionally, use of the term "Administration and Staff," or the equivalent as a name for alleged defendants, without the naming of specific staff members, is not adequate to state a claim against a "person" as required in § 1983 actions. See Barnes v. Baskerville Corr. Cen. Med. Staff, No. 3:07CV195, 2008 WL 2564779 (E.D. Va. June 25, 2008); Martin v. UConn Health Care, No. 3:99CV2158 (DJS), 2000 WL 303262, *1 (D. Conn. Feb. 09, 2000); Ferguson v. Morgan, No. 90 Civ. 6318, 1991 WL 115759 (S.D.N.Y. June 20, 1991). Plaintiff sues the "Greenville County Detention Administration and Staff," however, this description, without naming specific individuals, is not sufficient to state a claim against a "person," which is required in order to proceed with a Section 1983 action. Thus, "Greenville County Detention Administration and Staff" is entitled to summary dismissal.

Finally, Plaintiff sues Defendant Judge Verdin in this Section 1983 action. A judge is absolutely immune from a claim for money damages arising out of her judicial actions. See Mireles v. Waco, 502 U.S. 9 (1991); Stump v. Sparkman, 435 U.S. 349, 351-364 (1978); Pressly v. Gregory, 831 F.2d 514, 517 (4th Cir. 1987)(a suit by South Carolina inmate against two Virginia magistrates); and Chu v. Griffith, 771 F.2d 79, 81 (4th Cir. 1985)("It has long been settled that a judge is absolutely immune from a claim for damages arising out of his judicial actions."). See also Siegert v. Gilley, 500 U.S. 226 (1991)(immunity presents a threshold question which should be

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resolved before discovery is even allowed); *Burns v. Reed*, 500 U.S. 478 (1991)(safeguards built into the judicial system tend to reduce the need for private damages actions as a means of controlling unconstitutional conduct); and *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985)(absolute immunity "is an immunity from suit rather than a mere defense to liability"). Defendant Verdin, as a judicial officer, is entitled to summary dismissal.

RECOMMENDATION

Accordingly, it is recommended that the District Court dismiss the Defendants "Greenville County Detention Center," "Greenville County Detention Administration and Staff," and "Chief Administrator, Judge Letitia H. Verdin" named in the above-captioned case *without prejudice* and without issuance and service of process.

s/Bruce H. Hendricks United States Magistrate Judge

March 26, 2013 Charleston, South Carolina

The plaintiff's attention is directed to the important notice on the next page.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. "[I]n

the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk United States District Court Post Office Box 835 Charleston, South Carolina 29402

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984).